IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.4047/06
Shiv Charan Lal through L.Rs. Vs. Lakhan Lal & Ors.

1.5.2007

***Hon'ble Mr. Justice Mohammad Rafiq***

Shri J.P. Goyal for petitioner.
Shri R.K. Gaur for respondents.

Heard learned counsel for the parties.

Shri J.P. Goyal, the learned counsel for the petitioner has assailed the order dated 26.4.2006 passed by Civil Judge (Jr. Division), Bari whereby the application of the plaintiff petitioner filed under Order 7 Rule 14(3) read with Section 151 CPC for taking into record the certified copies of the plaint, written statement, order sheets of provisional determination of rent and its order dated

6.2.80 was rejected.

He argued that the petitioner wants that these documents be taken on record and does not want that these documents be exhibited in evidence. It was also argued that the delay in producing the documents on record should not be a ground for refusal of those documents to be taken on record. He in support of his arguments cited the judgment of this Court in Bhagwanti Devi Mohata Hospital Vs. ADJ, Rajgarh, AIR 2005 Raj. 274 and Shanti Lal & Anr. Vs. Kanhaiya Lal @ Krishna Chandra & Anr., AIR 2006 Raj. 126. It was argued that the pleadings to the effect that the defendants had already earlier availed of the benefit of first default and decree passed in that suit is already on record and therefore the defendants are not going to be prejudiced in any way more

particularly when the plaintiff is seeking to place on record these documents at his risk by not getting them either exhibited in evidence or recalling the witnesses to prove them. It was argued that the documents which are sought to be placed on record are all certified copies of the Court proceedings and therefore they cannot be said to be ingenuine or doubtful in nature and mere placing them on record would not in any way delay the trial.

On the other hand, Shri R.K. Gaur, the learned counsel for the respondents opposed the writ petition and argued that the civil suit was pending since 1985, issues therein were framed on 23.1.91 and evidence of the plaintiff himself has been closed on 21.12.2005. The plaintiff had delayed the proceedings by not producing the evidence for enormously long period of

15 years and if at this stage the documents are allowed to be taken on record, this would only create confusion. The documents are not public record but they are certified copies of the court proceedings. It was argued that when pleadings to this effect were already taken the earlier suit was filed and decree has been passed, the plaintiff has not been diligent enough to produce those documents along with the plaint to be taken on record, and if the documents are now allowed to be taken on record, this will tantamount to giving a premium to a person who is negligent in the conduct of the case. It was argued that when the matter is at the stage of final arguments, if the documents are allowed to be taken on record, this would further delay the trial of the suit which is pending for

more than 20 years.

I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties and perused the material on record.

I find that the documents which the petitioner is seeking to be place on record are certified copies of the court proceedings and on which their already exist pleadings. No doubt, the plaintiff has been negligent in not timely producing them on record, but now the fact is that they have come before this Court along with the application under Order 11 Rule 7 read with Section 151 of CPC. At this stage it may not be appropriate to receive the documents in evidence which may require the parties to again lead evidence and insist on producing evidence of the either of the parties. So far as the

request of the petitioner to formally take those documents in evidence, such request at this belated stage cannot be accepted more particularly when already one and a half decade has passed since recording of the evidence. At the same time, however, in view of what has been argued by the learned counsel for the petitioner that if the documents are allowed to be placed on record without being formally proved and exhibited at his risk, in the circumstances, therefore it is considered appropriate that document shall part of the record with liberty to the defendant also to produce any document in rebuttal thereof. However, this would not effect the right of the parties to address the Court on the question of admissibility, relevance and required in law for the Court to formally consider them at the

time of final disposal. I need to again clarify that mere placing of these documents on record would not entitle the plaintiff to formally ask for their being exhibited in evidence or for that purpose re-summon any of the witnesses. The matter shall be proceeded with for final arguments as it is stated to be the stage of proceedings.

With these observations, the writ petition is disposed of.

**(Mohammad Rafiq),J.**

**Rs/-**